

Notice of Allowability

Application No.

09/804,458

Examiner

Kaj K. Olsen

Applicant(s)

MAHER ET AL

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview of 5-19-2005.
2. ☒ The allowed claim(s) is/are 1,3,6-8,10-13 and 19-41.
3. ☒ The drawings filed on 12 March 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 5-19-05
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment to the claims was given in a telephone interview with Thomas Arno on 5-19-2005.

The application has been amended as follows: Claims 1 and 23 were amended.

1. (Currently amended) An assay plate and electrode assembly, comprising:

at least one sample well having electrodes placed therein, wherein said electrodes are substantially parallel, non-overlapping strips positioned substantially parallel to the bottom surface of the well[,]; and

an electrical stimulation generator configured to modulate cells' transmembrane potentials without electroporation of the cells' membranes by applying a potential difference to said electrodes to provide a non-rotating electric field adjacent to said bottom surface that varies by less than about 10% from a mean field intensity over at least about 20% of the surface area of said bottom surface, ~~said electric field having a strength high enough to modulate cells' transmembrane potentials but not high enough to cause electroporation of the cells' membranes.~~

23. (Currently amended) An assay plate and electrode assembly, comprising:

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at least one sample well having electrodes placed therein, wherein said electrodes are substantially planar, substantially parallel to each other, substantially perpendicular to the bottom surface of the well, and spaced from the bottom surface of the well a distance of about 0.1 mm to 0.5 mm; and

an electrical stimulation generator configured to modulate cells' transmembrane potentials without electroporation of the cell membranes by applying a potential difference to the electrodes to provide a non-rotating electric field having a strength high enough to modulate cells' transmembrane potentials but not high enough to cause electroporation of the cells' membranes an electric field adjacent to said bottom surface of the well that varies by less than 10% from a mean field intensity over at least 20% of the surface area of the bottom surface.

In the specification, in the first blank space of page 1, the phrase --09/804,457, published as US 2002/0045159-- was inserted.

In the specification, in the second blank space of page 1, the phrase --09/804,480, published as US 2002/0025568-- was inserted.

In the specification, in the third blank space of page 1, the phrase --09/804,580, now US 6,686,193-- was inserted.

On page 32, line 14, after "09/118,728", the phrase --, now US 6,608,671-- was inserted.

On page 51, line 31, after "09/118,497", the phrase --, now US 6,200,762-- was inserted.

On page 52, line 1, after "09/120,516", the phrase --, now US 6,214,563-- was inserted.

On page 52, line 2, after "09/122,477", the phrase --, now US 6,221,612-- was inserted.

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On page 52, line 6, after "09/459,956", the phrase --, now US 6,342,379-- was inserted.

On page 52, line 10, after "09/118,728", the phrase --, now US 6,608,671-- was inserted.

On page 86, line 31, after "09/301,525", the phrase --, now US 6,420,130-- was inserted.

On page 87, line 1, after "09/301,395", the phrase --, now US 6,143,492-- was inserted.

On page 87, line 2, after "09/458,927", the phrase --, now US 6,514,687-- was inserted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaj Olsen whose telephone number is (571) 272-1344. The examiner can normally be reached on Monday through Thursday from 5:30 A.M. to 3:00 P.M. and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AU 1753
May 20, 2005


KAJ K. OLSEN
PRIMARY EXAMINER